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**Joint Industry Position on the European Parliament Amendments Regarding Cookies
Reference Article 5.3 and *new* Recital 52a – e-Privacy Directive
Report by MEP Malcom Harbour (COD/2007/0248)
From European newspaper and magazine publishers, interactive advertising companies
and the direct marketing industry**

Brussels, 17 April 2009

Dear MEP,

The undersigned associations call upon Members of the European Parliament to reject all amendments to the existing Article 5 (3) and Recital 25. Today's legislation already regulates the processing of personal data and the use of cookies. The proposed amendments would not only impede the way the Internet works - to the detriment of website users, but also force companies to reengineer their technologies at great cost to industry and consumers alike.

As part of the negotiations on the Telecoms Package with the Member States, the European Parliament is proposing amendments to Article 5.3 of the ePrivacy Directive (2002/58/EC) that could seriously disrupt Internet usage by European citizens by suggesting changes to the legitimate use of cookies.

- **If adopted, the amendments risk changing the way the Internet works today. Users could be faced with repeated pop-up windows or other annoying virtual notices each and every time they visit a web page, slowing the user experience and the provision of Internet services. This may drive users away from European web sites.**
- **No need has been proven for changes to the current law and no cost or risk assessment made.**

The current legislation (Directives 2002/58/EC article 5.3 and Recital 25) and 95/46/EC) already ensures that:

- cookies can only be used on condition that users are provided with clear and precise information about the purposes of cookies or similar devices, and
- Users should have the opportunity to refuse to have a cookie.

In accordance with the existing law, industry is committed to making sure that the methods for giving information, offering a right to refuse or requesting consent are as user friendly as possible. Online, cookies help us shop, browse online newspapers and magazines, use chat and blogging services and take part in online communities. The advertising that funds the media and many free websites use cookie information to speed up the users experience and to help

deliver useful and relevant editorial content and advertising to Europe's citizens. Unfortunately the amendments do not take into account the benefits of the many new emerging publishing and advertising business models online which require cookies or that technology has evolved since the 2002 Directive was adopted which enhances the users' ability to control cookies.

Any attempt to subject all cookies either to prior consent or information messages which require real-time action by users would be disproportionate. The 1995 Data Protection Directive already provides sufficient protection for personal information and the 2002 ePrivacy Directive already gives clear guidance on the use of cookies.

The undersigned European organisations:

EACA – European Association of Communication Agencies

ENPA – European Newspaper Publishers' Association

EPC – European Publishers' Council

FAEP – European Federation of Magazine Publishers

FEDMA – Federation of European Direct and Interactive Marketing

IAB Europe – Interactive Advertising Bureau

Further information about how cookies work

Today, cookies are vital for a range of online services and increasingly so with the rise of web 2.0 web sites which often compile and customize content from many sources to make them more useful. If cookies cannot be easily deployed, web sites will not be able to provide users with the speedy and reliable services they expect.

Requiring any form of *prior* consent or any real-time reaction by website visitors to a specific information message in order for cookies to be used is not only impractical but unnecessary, as users are provided with clear and precise information (e.g. through privacy policies and links to information websites about privacy) which allows them to manage their cookie settings if they so choose.

The well established use of cookies is important to our members for many purposes. It is a myth to suggest that cookies are bad for privacy - cookies contain a text-and-number-only string of information used by the advertising, publishing and e-commerce industry to make surfing easier and quicker. Cookies should not be confused with 'spyware' or 'viruses' that are illegal.

Cookies have several roles, none of which can compromise your privacy:

1. Protection - to ensure you are a genuine visitor and not someone else using your password.
2. Authenticate and speed up your identification and e-commerce transactions, e.g. "remember" user names and passwords for websites for fast log-in.
3. Store preferences, such as languages or family safe modes.
4. Cap the frequency of advertising and to ensure that advertisements are rotated and not duplicated during any one visit to a site, and are relevant.

Most sites use cookies to do anything from counting the number of viewers they have to delivering tailored editorial and advertising content.

The existing Directive ensures that users have the opportunity to refuse to have cookies (or similar devices) stored in their machine. All the undersigned organisations believe that users should be provided with clear information on the purpose and role of such devices in order to help them make informed decisions about cookies. Websites are required by law to publish privacy policies. Already in 2001 the IAB on its own initiative” set up a website <http://www.allaboutcookies.org> to increase users’ knowledge of their online safety and to provide practical information about how to set your browser to control cookies.

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